



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/618,852

07/15/2003

Lincoln Muir

IVGN 334

4340

65482 7590 12/23/2008

INVITROGEN CORPORATION
C/O INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS, MN 55402

EXAMINER

NEGIN, RUSSELL SCOTT

ART UNIT

PAPER NUMBER

1631

MAIL DATE

DELIVERY MODE

12/23/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

Address : COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10618852	7/15/2003	MUIR ET AL.	IVGN 334

INVITROGEN CORPORATION
C/O INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS, MN 55402

EXAMINER

RUSSELL S. NEGIN

ART UNIT	PAPER
----------	-------

1631

20081213

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The amendment filed on 30 September 2008 canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because the newly recited claims are drawn to a different and distinct product than the previous set of claims filed on 26 December 2007.

New claims 47-59 and previously elected and examined claims 37-40, 42-46 are unrelated products. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, while claims 37-40, 42-46 recite a collection of clones wherein the nucleotides comprise suppressible stop codons, and claims 47-59 recite a clone collection with internal stop codons that are not specifically limited to be suppressible codons, claims 37-40 and 42-46 are directed to druggable targets and not fusion proteins as in claims 47-59. Druggable targets, specifically the G-protein coupled receptor or kinase which was elected by original presentation, are NOT the same as fusion proteins. Likewise, fusion proteins do not encompass the elected (wild type) kinase and receptor. The two inventions are consequently unrelated.

New claims 60-79 and claims 37-40 and 42-46 are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, claims 60-79 are directed to an entirely different and unrelated class of invention in that a cell is a living entity that only comprises a single clone and not a COLLECTION of clones.

Since the above-mentioned amendment appears to be a bona fide attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Papers related to this application may be submitted to Technical Center 1600 by facsimile transmission. Papers should be faxed to Technical Center 1600 via the central PTO Fax Center. The faxing of such pages must conform with the notices published in the Official Gazette, 1096 OG 30 (November 15, 1988), 1156 OG 61 (November 16, 1993), and 1157 OG 94 (December 28, 1993)(See 37 CFR § 1.6(d)). The Central PTO Fax Center Number is (571) 273-8300.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell Negin, Ph.D., whose telephone number is (571) 272-1083. The examiner can normally be reached on Monday-Friday from 7am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, Marjorie Moran, Supervisory Patent Examiner, can be reached at (571) 272-0720.

Information regarding the status of the application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information on the PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/RSN/

Russell S. Negin

13 December 2008

/Marjorie Moran/

Supervisory Patent Examiner, Art Unit 1631

PTO-90C (Rev.04-03)